

## **IC 5-22-5**

### **Chapter 5. Specifications**

#### **IC 5-22-5-1**

##### **Rules; policies**

Sec. 1. (a) A governmental body may adopt rules or establish policies for the preparation, maintenance, and content of specifications.

(b) Rules or policies may include a description of requirements for inspecting, testing, or preparing an item for delivery.

*As added by P.L.49-1997, SEC.1.*

#### **IC 5-22-5-2**

##### **Duties of purchasing agents**

Sec. 2. A purchasing agent shall prepare, issue, revise, maintain, and monitor the use of specifications.

*As added by P.L.49-1997, SEC.1.*

#### **IC 5-22-5-3**

##### **Purposes of specifications**

Sec. 3. A specification must do the following:

- (1) Promote overall economy for the purposes intended.
- (2) Encourage competition in satisfying the governmental body's needs.

*As added by P.L.49-1997, SEC.1.*

#### **IC 5-22-5-4**

##### **Indexed file of specifications**

Sec. 4. The purchasing agency shall maintain an indexed file of specifications prepared by or under the authority of its purchasing agents.

*As added by P.L.49-1997, SEC.1.*

#### **IC 5-22-5-5**

##### **Request for specifications**

Sec. 5. (a) The procedure described in this section may be used by a purchasing agent when both of the following are satisfied:

- (1) The purchasing agent makes a written determination that the development of specifications by the governmental body is not feasible.
- (2) The executive of the governmental body approves of the use of this section.

(b) The purchasing agent may issue a request for specifications that must include the following:

- (1) The factors or criteria that will be used in evaluating the specifications.
- (2) A statement concerning the relative importance of evaluation factors.
- (3) A statement concerning whether discussions may be conducted with persons proposing specifications to clarify the

specification requirements.

(c) The purchasing agent shall give notice of the request for specifications under IC 5-3-1.

(d) As provided in the request for specifications, the purchasing agent may discuss proposed specifications with persons proposing specifications to clarify specification requirements.

(e) Persons proposing specifications must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposed specifications.

*As added by P.L.49-1997, SEC.1.*

## **IC 5-22-5-6**

### **Purchase of degradable and disposable plastic products**

Sec. 6. (a) This section does not apply to a political subdivision.

(b) As used in this section, "biodegradation" means the conversion of all constituents of a plastic into miscellaneous component parts by the microbial action of fungi and bacteria upon natural materials such as cornstarch.

(c) As used in this section, "chemical degradation" means the conversion of all constituents of a plastic into miscellaneous component parts through the chemical reactions of additives such as auto-oxidants and the environment with the plastic.

(d) As used in this section, "degradable" means capable of being broken down by one (1) or more of the following degradation processes:

- (1) Biodegradation.
- (2) Photodegradation.
- (3) Chemical degradation.

(e) As used in this section, "photodegradation" means the conversion of all constituents of a plastic product into miscellaneous component parts through the physical breakdown of the plastic product upon sufficient exposure to ultraviolet radiation.

(f) As used in this section, "plastic" includes a hybrid material containing plastic as a major component.

(g) As used in this section, "refuse bag" means a disposable plastic bag that is designed to hold garbage, grass clippings, fallen leaves, or other refuse. The term includes a disposable plastic bag that is designed to be placed inside and to catch the refuse deposited in a rigid refuse receptacle.

(h) When purchasing disposable plastic products, including refuse bags, a governmental body shall purchase disposable plastic products that are degradable if all the following apply:

- (1) Degradable products are available at the time of the purchase.
- (2) It is economically feasible to purchase degradable products.
- (3) The purchase of degradable products is not inappropriate because of:
  - (A) federal regulations or policy in matters involving the federal government; or
  - (B) the special requirements of scientific uses.

(4) The degradable product to be purchased is economically and functionally the equivalent of disposable plastic products that:

- (A) meet applicable specifications; and
- (B) are not degradable.

(5) The degradable product to be purchased is, in the determination of the purchasing agent, a type of product for which the use of degradable materials is appropriate based upon:

- (A) the functional use of the product; and
- (B) whether the product will probably be recycled or disposed of in a final disposal facility.

*As added by P.L.49-1997, SEC.1.*

#### **IC 5-22-5-7**

##### **Purchase of recycled paper products**

Sec. 7. (a) This section does not apply to a political subdivision.

(b) A governmental body purchasing paper products shall purchase recycled paper products if all of the following apply:

- (1) Recycled paper products are available at the time of a purchase.
- (2) It is economically feasible to purchase recycled paper products.
- (3) The purchase of recycled paper products is not inappropriate because of:
  - (A) federal regulations or policy in matters involving the federal government; or
  - (B) the special requirements of scientific uses.

*As added by P.L.49-1997, SEC.1.*

#### **IC 5-22-5-8**

##### **Purchase of mid-level blend fuel, E85, and blended biodiesel fuel by governmental bodies; exemptions**

Sec. 8. (a) This section does not apply to a political subdivision, except a school corporation (as defined in IC 20-18-2-16(a)).

(b) As used in this section, "blended biodiesel" has the meaning set forth in IC 6-3.1-27-2.

(c) As used in this section, "diesel fueled vehicle" refers to a vehicle that is capable of using diesel to fuel its primary motor.

(d) As used in this section, "ethanol" means agriculturally derived ethyl alcohol.

(e) As used in this section, "E85" has the meaning set forth in IC 6-6-1.1-103.

(f) As used in this section, "gasoline fueled vehicle" refers to a vehicle that is capable of using gasoline to fuel its primary motor.

(g) As used in this section "mid-level blend fuel" means a fuel blend consisting of:

- (1) at least twenty percent (20%) but not more than seventy-three percent (73%) ethanol; and
- (2) gasoline as the balance.

(h) As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

(i) Except as provided by subsections (k) and (l), a governmental body shall whenever possible purchase mid-level blend fuel or E85 to fuel the gasoline fueled vehicles owned or operated by the governmental body.

(j) Except as provided by subsections (k) and (l), a governmental body shall whenever possible purchase blended biodiesel fuel to fuel the diesel fueled vehicles owned or operated by the governmental body.

(k) The following vehicles are exempt from the requirements of subsections (i) and (j):

(1) A vehicle that is leased by the governmental body for thirty (30) days or less.

(2) A vehicle that:

(A) is primarily powered by an electric motor; or

(B) can use only propane, compressed or liquified natural gas, or methanol as its fuel source.

(l) The following vehicles are exempt from the requirements of subsection (i) or (j), whichever is appropriate:

(1) A gasoline fueled vehicle in which the use of mid-level blend fuel or E85 has not been approved by the manufacturer.

(2) A diesel fueled vehicle in which the use of blended biodiesel fuel has not been approved by the manufacturer.

(3) A gasoline fueled vehicle in which the use of mid-level blend fuel is prohibited by the federal Clean Air Act (42 U.S.C. 7401 et seq.).

*As added by P.L.274-2001, SEC.1. Amended by P.L.6-2005, SEC.1; P.L.148-2009, SEC.1.*

#### **IC 5-22-5-8.5**

#### **State entities required to purchase or lease clean energy vehicles; exceptions; rules; reports**

Sec. 8.5. (a) As used in this section, "clean energy vehicle" means any of the following:

(1) A vehicle that operates on one (1) or more of the following energy sources:

(A) A rechargeable energy storage system.

(B) Hydrogen.

(C) Compressed air.

(D) Compressed or liquid natural gas.

(E) Solar energy.

(F) Liquefied petroleum gas.

(G) Any other alternative fuel (as defined in IC 6-3.1-31.9-1).

(2) A vehicle that operates on gasoline and one (1) or more of the energy sources listed in subdivision (1).

(3) A vehicle that operates on diesel fuel and one (1) or more of the energy sources listed in subdivision (1).

- (b) As used in this section, "state entity" means the following:
- (1) A state agency.
  - (2) Any other authority, board, branch, commission, committee, department, division, or other instrumentality of the executive (including the administrative), legislative, or judicial department of state government.

The term includes a state elected official's office and excludes a state educational institution.

- (c) As used in this section, "vehicle" includes the following:
- (1) An automobile.
  - (2) A truck.
  - (3) A tractor.

(d) Except as provided in subsection (e), if a state entity purchases or leases a vehicle, it must purchase or lease a clean energy vehicle unless the Indiana department of administration determines that the purchase or lease of a clean energy vehicle:

- (1) is inappropriate because of the purposes for which the vehicle will be used; or
- (2) would cost at least twenty percent (20%) more than the purchase or lease of a vehicle that:
  - (A) is not a clean energy vehicle; and
  - (B) is designed and equipped comparably to the clean energy vehicle.

- (e) The requirements of subsection (d) do not apply to the:
- (1) purchase or lease of vehicles by or for the state police department; and
  - (2) short term or temporary lease of vehicles.

(f) The Indiana department of administration shall adopt rules or guidelines to provide a preference for the purchase or lease by state entities of clean energy vehicles manufactured wholly or partially in Indiana or containing parts manufactured in Indiana.

(g) Before August 1, each state entity shall annually submit to the Indiana department of administration information regarding the use of clean energy vehicles by the state entity. The information must specify the following for the preceding state fiscal year:

- (1) The amount of alternative fuels purchased by the state entity.
- (2) The amount of conventional fuels purchased by the state entity.
- (3) The average price per gallon paid by the state entity for each type of fuel purchased by the state entity.
- (4) The total number of vehicles purchased or leased by the state agency that were clean energy vehicles and the total number of vehicles purchased or leased by the state agency that were not clean energy vehicles.
- (5) Any other information required by the Indiana department of administration.

(h) Before September 1, the Indiana department of administration shall annually submit to the general assembly in an electronic format under IC 5-14-6 and to the governor a report that lists the information

required under subsection (g) for each state entity and for all state agencies in the aggregate.

*As added by P.L.151-2009, SEC.3. Amended by P.L.277-2013, SEC.3.*

#### **IC 5-22-5-9**

##### **Purchases of biobased products**

Sec. 9. (a) This section applies to a purchase of supplies by any of the following:

- (1) A governmental body.
- (2) A state educational institution.

(b) As used in this section, "biobased product" refers to an item designated by the United States Department of Agriculture as a biobased product for federal procurement under Section 9002 of the federal Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102).

(c) A governmental body or a state educational institution shall, whenever possible, purchase biobased products if all of the following apply:

- (1) Biobased products are available at the time of the purchase.
- (2) It is economically feasible to purchase biobased products.
- (3) The purchase of biobased products is not inappropriate because of:
  - (A) federal regulations or policy in matters involving the federal government; or
  - (B) the special requirements of scientific uses.

*As added by P.L.19-2007, SEC.2.*